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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Committee Substitute For

SENATE BILL NO. 202

(By Senators WIEDEBUSCH; MACNAUGHTAN)



PASSED MARCH 11, 1995

In Effect 90 Days From Passage

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 202

(SENATORS WIEDEBUSCH AND MACNAUGHTAN,
original sponsors)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and three-a, article six, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article nineteen of said chapter, all relating to establishing speed limitations generally; defining the misdemeanor offense of driving in excess of the established speed limits and providing penalties therefor; prescribing the penalty for driving less than ten miles per hour above the posted speed limit on a controlled access highway or interstate highway; describing when a certified abstract of a judgment of conviction shall not be transmitted or shall not be recorded by the division of motor vehicles if a person is convicted of driving above the speed limit on a controlled access highway or interstate highway; establishing minimum speed regulations; defining the misdemeanor offense of driving a motor vehicle at such a slow

speed as to impede traffic, and providing penalties therefor; describing offenses by persons owning or controlling vehicles; and providing, under certain circumstances, for an owner present in a vehicle to be arrested for a traffic violation rather than the driver.

Be it enacted by the Legislature of West Virginia:

That sections one and three-a, article six, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section two, article nineteen of said chapter be amended and reenacted, all to read as follows:

ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-1. Speed limitations generally; penalties for violation of speed limits in school zones.

- 1 (a) No person may drive a vehicle on a highway at a
2 speed greater than is reasonable and prudent under the
3 existing conditions and the actual and potential hazards.
4 In every event speed shall be so controlled as may be
5 necessary to avoid colliding with any person, vehicle or
6 other conveyance on or entering the highways in compli-
7 ance with legal requirements and the duty of all persons
8 to use due care.
- 9 (b) Where no special hazard exists that requires lower
10 speed for compliance with subsection (a) of this section
11 the speed of any vehicle not in excess of the limits
12 specified in this section or established as hereinafter
13 authorized is lawful, but any speed in excess of the limits
14 specified below in this subsection or established as
15 hereinafter authorized is unlawful.
- 16 (1) Fifteen miles per hour in a school zone during
17 school recess or while children are going to or leaving
18 school during opening or closing hours. A school zone is
19 all school property including school grounds and any
20 street or highway abutting such school grounds and
21 extending one hundred twenty-five feet along such street
22 or highway from the school grounds. Such speed restric-
23 tion does not apply to vehicles traveling on a controlled-

24 access highway which is separated from the school or
25 school grounds by a fence or barrier approved by the
26 state road commissioner;

27 (2) Twenty-five miles per hour in any business or
28 residence district;

29 (3) Fifty-five miles per hour on open country highways,
30 except as otherwise provided by this chapter.

31 The speeds set forth in this section may be altered as
32 authorized in sections two and three of this article.

33 (c) The driver of every vehicle shall, consistent with the
34 requirements of subsection (a) of this section, drive at an
35 appropriate reduced speed when approaching and
36 crossing an intersection or railway grade crossing, when
37 approaching and going around a curve, when approach-
38 ing a hill crest, when traveling upon any narrow or
39 winding roadway and when special hazard exists with
40 respect to pedestrians or other traffic or by reason of
41 weather or highway conditions.

42 (d) The speed limit on controlled-access highways and
43 interstate highways, where no special hazard exists that
44 requires a lower speed, shall be not less than fifty-five
45 miles per hour and the speed limits specified in subsec-
46 tion (b) of this section do not apply.

47 (e) Any person who violates the provisions of this
48 section is guilty of a misdemeanor, and, upon conviction
49 thereof, shall be fined not more than one hundred
50 dollars: *Provided*, That any person who violates the
51 provisions of this section after having been previously
52 convicted under the provisions of this section for a prior
53 offense which occurred within the preceding one-year
54 period, is guilty of a misdemeanor, and, upon conviction
55 thereof, shall be fined not more than two hundred
56 dollars: *Provided, however*, That any person who
57 violates the provisions of this section after having been
58 previously convicted under the provisions of this section
59 for two or more prior offenses which occurred within the
60 preceding two-year period, is guilty of a misdemeanor,

61 and, upon conviction thereof, shall be fined not more
62 than five hundred dollars or confined in jail for not more
63 than six months, or both: *Provided further*, That any
64 person who violates subdivision (1) of subsection (b) of
65 this section is guilty of a misdemeanor, and, upon
66 conviction thereof, shall be fined not less than one
67 hundred dollars nor more than five hundred dollars, or
68 shall be fined not less than one hundred dollars nor more
69 than five hundred dollars and confined in jail for not
70 more than six months, or both, for a violation of said
71 subdivision after having been previously convicted for
72 one or more violations of said subdivision which oc-
73 curred within the preceding two-year period.

74 (f) If an owner or driver is arrested under the provi-
75 sions of this section for the offense of driving above the
76 posted speed limit on a controlled access highway or
77 interstate highway, and if the evidence shall show that
78 the motor vehicle was being operated at less than ten
79 miles per hour above said speed limit, then, upon convic-
80 tion thereof, such person shall be fined not more than
81 five dollars, plus court costs.

82 If an owner or driver is convicted under the provisions
83 of this section for the offense of driving above the speed
84 limit on a controlled access highway or interstate
85 highway of this state, and if the evidence shall show that
86 the motor vehicle was being operated at less than ten
87 miles per hour above said speed limit, then notwith-
88 standing the provisions of section four, article three,
89 chapter seventeen-b of this code, a certified abstract of
90 the judgment on such conviction shall not be transmitted
91 to the department of motor vehicles.

92 If an owner or driver is convicted in another state for
93 the offense of driving above the maximum speed limit on
94 a controlled access highway or interstate highway, and
95 if the maximum speed limit in such other state is less
96 than the maximum speed limit for a comparable con-
97 trolled access highway or interstate highway in this
98 state, and if the evidence shall show that the motor

99 vehicle was being operated at less than ten miles per
100 hour above what would be the maximum speed limit for
101 a comparable controlled access highway or interstate
102 highway in this state, then notwithstanding the provi-
103 sions of section four, article three, chapter seventeen-b
104 of this code, a certified abstract of the judgment on such
105 conviction shall not be transmitted to the department of
106 motor vehicles, or, if transmitted, shall not be recorded
107 by the department, unless within a reasonable time after
108 conviction, the person convicted has failed to pay all
109 fines and costs imposed by the other state.

§17C-6-3a. Minimum speed regulations.

1 (a) No person shall drive a motor vehicle at such a slow
2 speed as to impede the normal and reasonable movement
3 of traffic except when reduced speed is necessary for
4 safe operation or in compliance with law.

5 (b) Whenever the commissioner or local authorities
6 within their respective jurisdiction determine on the
7 basis of an engineering and traffic investigation that
8 slow speeds on any part of the highway consistently
9 impede the normal and reasonable movement of traffic,
10 the commissioner or such local authority may determine
11 and declare a minimum speed limit below which no
12 person shall drive a vehicle except when necessary for
13 safe operation or in compliance with law.

14 (c) Any person who violates the provisions of this
15 section is guilty of a misdemeanor, and, upon conviction
16 thereof, shall be fined not more than one hundred
17 dollars: *Provided*, That any person who violates the
18 provisions of this section after having been previously
19 convicted under the provisions of this section for a prior
20 offense which occurred within the preceding one year
21 period, is guilty of a misdemeanor, and, upon conviction
22 thereof, shall be fined not more than two hundred
23 dollars: *Provided, however*, That any person who
24 violates the provisions of this section after having been
25 previously convicted under the provisions of this section
26 for two or more prior offenses which occurred within the

27 preceding two year period, is guilty of a misdemeanor,
28 and, upon conviction thereof, shall be fined not more
29 than five hundred dollars or confined in jail for not more
30 than six months, or both.

**ARTICLE 19. PARTIES, PROCEDURE ON ARREST AND REPORTS IN
CRIMINAL CASES.**

**§17C-19-2. Offenses by persons owning or controlling vehi-
cles; owner present in vehicle to be arrested
rather than driver for certain traffic violations.**

1 It is unlawful for the owner, or any other person,
2 employing or otherwise directing the driver of any
3 vehicle to require or knowingly to permit the operation
4 of such vehicle upon a highway in any manner contrary
5 to law.

6 If the owner of a motor vehicle is present in the vehicle
7 at a time when another driver is operating the vehicle
8 upon the highways of this state: (1) With defective or
9 improper equipment in violation of the provisions of
10 article fifteen of this chapter; (2) in violation of the
11 weight, height, length or width provisions of article
12 seventeen of this chapter; (3) with improper registration
13 in violation of the provisions of article three, chapter
14 seventeen-a of this code; or (4) with an expired vehicle
15 inspection decal or certificate in violation of the provi-
16 sions of article sixteen of this chapter, the owner rather
17 than the driver shall be arrested for any violation
18 enumerated herein in lieu of an arrest of the driver. If
19 the owner of the vehicle is not present therein, then the
20 driver shall be arrested for any violation enumerated in
21 this section.

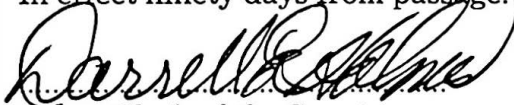
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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Chairman Senate Committee

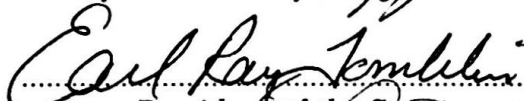

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is approved*..... this the *24th*.....
day of *March*..... 1995.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/95

Time 3:42 pm